

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

IN RE: . Case No. 08-35653 (KRH)
. .
. .
CIRCUIT CITY STORES, . 701 East Broad Street
INC., et al., . Richmond, VA 23219
. .
. .
Debtors. . September 21, 2011
.
2:07 p.m.

TRANSCRIPT OF HEARING
BEFORE HONORABLE KEVIN R. HUENNEKENS
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

For the Debtor: Tavenner & Beran, PLC
By: LYNN L. TAVENNER, ESQ.
20 North Eighth Street, 2nd Floor
Richmond, VA 23219

For Universal Display Sands Anderson PC
and Fixtures: By: WILLIAM A. GRAY, ESQ.
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Proceedings recorded by electronic sound recording, transcript
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1 DEPUTY CLERK: In the matter of Circuit City Stores,
2 Incorporated, hearing on Items 1 through 7 as set out on
3 proposed Agenda.

4 MS. TAVENNER: Good afternoon again, Your Honor.

5 THE COURT: Good afternoon again, although I think it
6 was morning before, wasn't it? Or was it --

7 MS. TAVENNER: I think it was after -- shortly after
8 noon.

9 THE COURT: Okay, I'll defer to you then.

10 MS. TAVENNER: For the record Lynn Tavenner of the
11 Law Firm of Tavenner & Beran appearing here today on behalf of
12 the Circuit City Stores, Inc. Liquidating Trust. With me at
13 counsel table is Ms. Catherine Bradshaw.

14 If Your Honor pleases, the docket is short today, but
15 we do have one matter that Mr. Gray is here on, if I could take
16 that out of order.

17 THE COURT: You may. Which matter is that?

18 MS. TAVENNER: It's Number 3, Your Honor. It's the
19 adversary case, Siegel against Foss, et al.

20 THE COURT: All right.

21 MS. TAVENNER: It's an adversary proceeding in which
22 you'll note that pleadings were filed, a motion to dismiss.
23 After that, Your Honor, the parties have agreed now to a
24 mediation schedule and there actually is a mediation date in
25 early December. Based upon that, Your Honor, we would

1 respectfully request that the pretrial motions just be tabled
2 and set for a status hearing at our December Omni date such
3 that we're hopeful that perhaps we can resolve the adversary in
4 advance of that, but if not we would come back for a status in
5 December.

6 THE COURT: All right, very good. Mr. Gray.

7 MR. GRAY: Yes. Good afternoon, Your Honor. William
8 Gray with Sands Anderson on behalf of the director and officer
9 defendants. Ms. Tavenner is basically correct. What is on
10 calendar is our motion to dismiss, and that -- we do ask that
11 that remain pending and so we're pushing that back to a date
12 after the deadline for the mediation. Deadline for the
13 mediation is December 12th, so therefore we're asking that this
14 hearing -- we continue for a status hearing our motion to
15 dismiss to December 20th.

16 THE COURT: Okay. Is that the Omnibus date that's in
17 December?

18 MS. TAVENNER: Yes, Your Honor.

19 THE COURT: Okay. So, we'll continue this for status
20 then to the December 20 Omnibus date.

21 MR. GRAY: Thank you.

22 THE COURT: All right.

23 MS. TAVENNER: Thank you, Your Honor. I apologize.
24 I thought we had scheduled the mediation.

25 THE COURT: All right.

1 MS. TAVENNER: But, we do have an outside date.

2 THE COURT: Okay. Well, that's fine. And what we'll
3 do then is wish you every success with the mediation and I
4 anticipate that you'll be able to get this resolved.

5 MR. GRAY: Thank you.

6 MS. TAVENNER: Thank you, Your Honor.

7 Your Honor, moving back then to the Agenda, Matter 1
8 on the docket is the Trust's motion to file certain documents
9 under seal. Your Honor, we had mentioned this to you at a
10 previous Omnibus hearing date. As you might recall, there is a
11 plethora of litigation throughout the country with respect to
12 flat panel screen TVs. Circuit City is involved in that
13 litigation. And we are happy to report that with respect to
14 the Trust, who has succeeded to Circuit City, we have a
15 settlement with Samsung. That settlement, however, due to the
16 additional litigation that is outstanding is extremely
17 confidential. And so we filed this motion to file the motion
18 to approve the Samsung resolution under seal.

19 So, in essence, Your Honor, we are requesting that
20 the entire 9019 motion agreement, any related documents be
21 filed under seal with, however, any interested party that is
22 defined within the motion having the right to request to review
23 the documents under the protective order that we would present
24 to you. And that would certainly then -- unless they are
25 defendants in the litigation we certainly are willing to allow

1 others to see it, but we do need to make sure that we do have
2 the proper procedures in place to keep all of the terms
3 confidential.

4 So that is, in essence, the motion, Your Honor. We
5 have appropriately noticed it, received no objections, and we
6 would respectfully request that you enter an order approving
7 that motion and once that's done we would proceed to file the
8 9019 Motion under seal.

9 THE COURT: You did see the recommendation from the
10 Judicial Conference last week on federal courts sealing
11 proceedings and documents and the like?

12 MS. TAVENNER: I saw that the Judicial Conference had
13 made a recommendation and that they said that they desired for
14 federal courts to be as open as possible, but I did not read
15 the underlying recommendation. But, I do believe --

16 THE COURT: Well, fortunately I did and it was
17 interesting from the standpoint that it talked about how few
18 cases actually were ever done under seal. We seem to get quite
19 a few in bankruptcy, it seems, because of the confidential
20 nature of -- usually it's proprietary business information and
21 trade secrets. But, nevertheless, I'm going to grant this
22 motion. You have brought to my attention before the problems
23 with the flat panel TV litigation. And I'm pleased that we've
24 got a settlement that the Court can consider and I will allow
25 you to file those documents under seal. Now, remind me, what

1 is the procedure then if somebody wants to -- who's not a party
2 to that litigation, wanted to see the confidential information,
3 do they have to enter into an appropriate protective order that
4 would bind them to the secrecy, and such, of the information in
5 there?

6 MS. TAVENNER: Yes, Your Honor. In fact, attached as
7 Exhibit A to the order that we will tender is a commitment, if
8 you will, of the party that wishes to review the documentation
9 to say that they will abide by the protective order and not
10 disclose the information and that they understand that the
11 violation is punishable as a contempt of court.

12 THE COURT: And they submit to the jurisdiction of
13 the Court. Okay.

14 MS. TAVENNER: Yes.

15 THE COURT: Very good. All right. I see that
16 Exhibit A and as I previously indicated, I will grant that
17 motion.

18 MS. TAVENNER: Thank you, Your Honor. The next
19 matter on the docket is the Trust's second motion to extend the
20 claims objection deadline with regard to general unsecured
21 claims. By this motion, Your Honor, the Trust is seeking a
22 180-day extension. The current deadline is October 27th, so
23 we're seeking to go out an additional 180 days. For the
24 reasons cited in the motion, Your Honor, and that we have
25 articulated to you orally before, Your Honor, we do believe

1 that this extension is necessary. While Ms. Bradshaw, Mr.
2 Siegel and the entire team are working very diligently, there
3 is just an inordinate amount of additional work to be done,
4 specifically with regard to the claims. The extension of time
5 will provide the staff with time to analyze over an additional
6 3800 claims which assert damages of approximately \$1.6 billion.

7 At the same time, Your Honor, the Trust is continuing
8 to prosecute the adversary proceedings that have been filed.
9 To date, Your Honor, while there were over 500, we are at the
10 point of having -- of continuing with approximately 150. So,
11 we have had great success with the mediation protocol that you
12 put into place, though the ones that remain, Your Honor, do
13 involve a great bit of detail. They are some of the larger
14 ones, in the 20 to \$30 million range, will involve a lot of
15 additional analysis.

16 And then at the same time, Your Honor, there are a
17 handful of adversaries that did not settle under the mediation
18 protocol and are now on the litigation track, so the same staff
19 of 13 is involved in the pretrial procedures at this point with
20 regard to those. And then they also are, in addition,
21 continuing to reconcile admin claims and doing the day-to-day
22 work of the Trust staff. Just recently they completed a great
23 task of dealing with tax returns. So, they are working very
24 hard. They do believe that this additional 180 days will give
25 them the time that they need to resolve the remaining general

1 unsecured claims -- not resolve them -- I apologize, Your Honor
2 -- to analyze them and determine whether or not objections need
3 to be filed.

4 We are not intending, Your Honor, to wait until the
5 179th day and file every objection that we can. We are hopeful
6 that we will be able to put into process a formula whereby
7 certain claims can be analyzed and we can file the objections
8 as necessary so that it will be a running table and we don't
9 have all of them up against us at the same time. That's the
10 hope, Your Honor. We do believe that within the 180 days
11 though that the Trust staff can complete their analysis with
12 respect to the underlying claims. We appropriately noticed
13 this, filed no objections to the same, would respectfully
14 request the Court to enter an order extending that deadline for
15 180 days.

16 THE COURT: Okay. And that takes us out to April
17 24, is that --

18 MS. TAVENNER: Yes, Your Honor.

19 THE COURT: Okey, very good. All right. Excuse me.
20 That motion will be granted, as well.

21 MS. TAVENNER: Thank you, Your Honor. That brings us
22 on the Agenda to items related to certain claims objections
23 that have been filed. Item 4, Your Honor, is the Liquidating
24 Trust's Tenth Omnibus Objection to disallow certain claims
25 relating to short-term incentive program. Your Honor, there

1 are two remaining claims with respect to that objection. We
2 will -- are requesting, Your Honor, that October 19th, which is
3 out next date, that these be set for a substantive hearing so
4 that we can have those finally determined.

5 THE COURT: Okay. October what?

6 MS. TAVENNER: October 19 at two, Your Honor.

7 THE COURT: Okay. And you will give notice to the
8 claimants that this will go forward as a substantive hearing on
9 those days?

10 MS. TAVENNER: Yes, Your Honor, we will.

11 THE COURT: Thank you.

12 MS. TAVENNER: Your Honor, the next matter, Item 5 on
13 the docket, is the Liquidating Trust's Twenty-Second Omnibus
14 Objection. There is one claimant remaining, Robert T. Miller,
15 and we have not received to date any timely response. And we
16 have given notice of a substantive hearing for today, have not
17 heard from Mr. Miller, and at this point, Your Honor, as we
18 have given him additional notice, we would respectfully request
19 that the Trust's objection be sustained at this point.

20 THE COURT: All right. Does any person -- does Mr.
21 Miller or any person on his behalf wish to be heard?

22 (No audible response)

23 THE COURT: All right. There being no response from
24 Mr. Miller to the objection to his claim and the additional
25 notice pursuant to this Court's request having been given of

1 today's substantive hearing the Court will sustain the
2 objection.

3 MS. TAVENNER: Thank you, Your Honor. Item 6 on the
4 Court's docket is the Debtor's Thirty-Seventh Omnibus
5 objection. This relates to the request to reduce certain
6 personal property tax claims. Your Honor, as these are all
7 taxing entities it just by its nature requires a little
8 additional time. As a result, Your Honor, we are requesting
9 that you continue this matter for a status hearing only until
10 the Court's November 8th Omnibus date at 2 p.m.

11 THE COURT: All right. So, these matters will be
12 continued to November 8th for continued status.

13 MS. TAVENNER: Thank you, Your Honor. The final
14 matter is the Notice and Objection to Claim of the California
15 Board of Equalization. This matter was set for a hearing
16 today, Your Honor -- a status hearing. I apologize, I didn't
17 say that. We are still hopeful that, perhaps, this matter can
18 be resolved with the California State Board Equalization and
19 would request that it be continued for status again until our
20 October 19th date, 2 p.m.

21 THE COURT: All right. So, this will be continued to
22 October 19 for continued status.

23 MS. TAVENNER: Yes, Your Honor.

24 THE COURT: All right.

25 MS. TAVENNER: That concludes the matters that are on

1 the docket for this afternoon. We are filing notices with
2 respect to substantive hearings on certain claim objections and
3 do expect that there will be a need for some form of testimony
4 at the October hearing, so I just wanted to advise Your Honor
5 of that.

6 THE COURT: All right. I appreciate that and I will
7 certainly be prepared to address those claims and be familiar
8 with the pleadings and such at that hearing.

9 MS. TAVENNER: Thank you, Your Honor.

10 THE COURT: All right. Is there any other business
11 then we need to take up in Circuit City today?

12 MS. TAVENNER: No, Your Honor.

13 THE COURT: All right. Thank you, very much.

14 MS. TAVENNER: Thank you.

15 * * * * *

16 C E R T I F I C A T I O N

17 I, LORI AUETTA, court approved transcriber, certify
18 that the foregoing is a correct transcript from the official
19 electronic sound recording of the proceedings in the
20 above-entitled matter, and to the best of my ability.

21

22

23 /s/ Lori Auletta

24 LORI AUETTA

25 J&J COURT TRANSCRIBERS, INC. DATE: September 27, 2011